

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 03 October 2008 has been entered.

Response to Amendment

2. According to the Amendment, filed 03 September 2008, the status of the claims is as follows:

Claims 1, 22, and 32 are currently amended;

Claims 3, 6, 7, 9, 11, 19-21, 24, 25, 27, and 28 are as originally filed; and

Claims 2, 4, 5, 8, 10, 12, 13-18, 23, 26, 29-31, 33, and 34 are previously presented.

3. The 35 U.S.C. 112, second paragraph, rejections to claims 1-34 are WITHDRAWN in view of the Amendment.

Response to Arguments

4. Applicant's arguments, see Remarks, pp. 8-9, filed 03 September 2008, with respect to the rejection of claims 1-34 under 35 U.S.C. 103(e) as being anticipated by Goodman et al, U.S. Patent No. 6,616,613 B1 ("Goodman"), have been fully considered, but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

5. Claims 1-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Barnes et al, U.S. Patent No. 5,406,952 A ("Barnes"), in view of Lemelson, U.S. Patent No. 4,299,233 A ("Lemelson").

Art Unit: 3735

Claims 1-34: Barnes teaches the following:

a blood pressure and pulse rate system for deriving the blood pressure and pulse of a subject that is in communication with an interface member (see Abstract), said system comprising:

a sensor module 52 in communication with an interface member 54, said sensor module 52 for detecting a pulse wave form and pulse rate; and

a processor module 200 that analyzes the pulse wave form and pulse rate signal for deriving variants of blood pressure (see col. 1, ll. 26-49).

Barnes does not teach an inflated interface member “maintained at a substantially constant pressure, wherein said interface member is configured to function when in indirect contact with the subject's body”. However, Lemelson teaches pulse waveforms can be obtained from an interface member maintained at a constant pressure, wherein the interface member is configured to function when in indirect contact with the subject's body (see figs. 3 and 4, col. 1, ll. 6-43, and col. 2, ll. 55-67). Thus, it would have been obvious for one of ordinary skill in the art at the time the invention was made to modify Barnes's interface member 54 with Lemelson's interface member because Lemelson suggests that an object of his invention is to provide a method of detecting pulse rate without the need for attaching a cuff or band to the body of a patient” (see col. 2, ll. 6-8).

Barnes additionally teaches subject matter of the dependent claims 2-21 (see col. 2, l. 19, to col. 10, l. 36).

Claims 22-31 and 33: Because the subject matter of claims 22-31 and 33 directed to a method that is not distinct from the subject matter of claims 1-21 directed to a system, Barnes in view of Lemelson teaches claims 22-31 and 33 for the same reasons as that provided for the rejection of claims 1-21 above.

Art Unit: 3735

Claims 32 and 34: Because the subject matter of claims 32 and 34 directed to a computer program product that is not distinct from the subject matter of claims 1 and 5 directed to a system, Barnes in view of Lemelson teaches claims 32 and 34 for the same reasons as that provided for the rejection of claims 1 and 5 above.

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The other patents cited in the PTO-892 teach subject matter related to the Applicant's claims. The Examiner suggests reviewing these patents before responding to the present Office Action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to NAVIN NATNITHITHADHA whose telephone number is (571)272-4732. The examiner can normally be reached on Monday-Friday, 9:00 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles Marmor, II can be reached on (571) 272-4730. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3735

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Navin Natnithithadha/
Patent Examiner, Art Unit 3735
10/22/2008